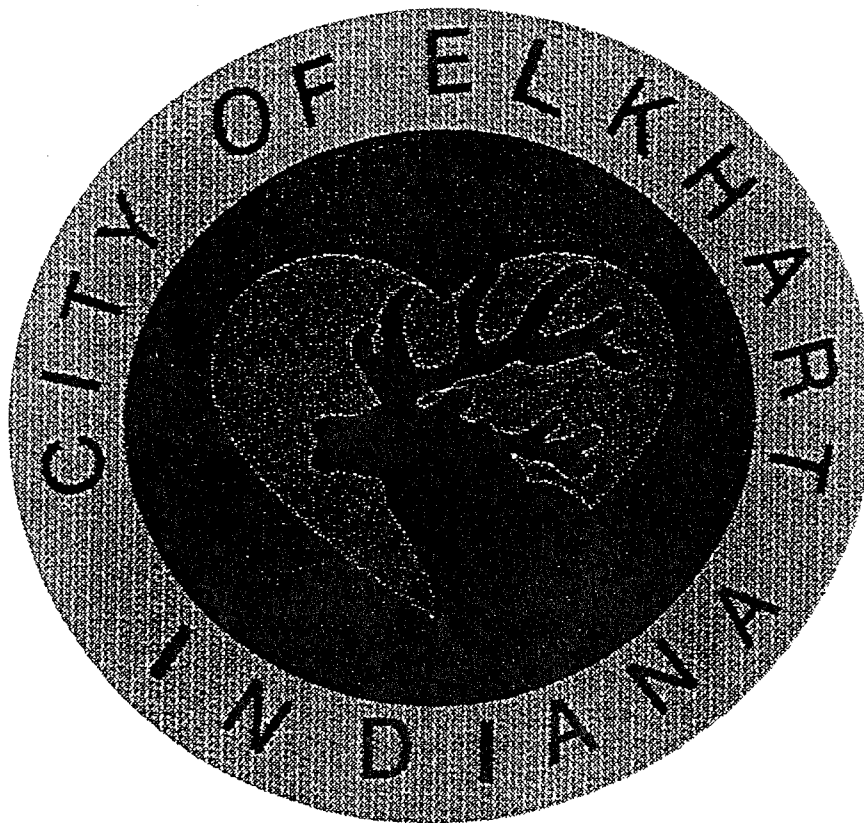


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ENFORCEMENT RESPONSE PLAN

Revisions



Submitted to

U.S. EPA

September 1994

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INTRODUCTION

I. BACKGROUND

Recognizing the need to protect the nation's water resources, the federal government enacted in 1972 The Clean Water Act. This broad-reaching legislation, since amended a number of times, resulted in the formation of the Environmental Protection Agency (EPA) and all subsequent regulations regarding water pollution control. One consequence is that municipalities must be permitted by the Indiana Department of Environmental Management (IDEM) and EPA in order to discharge wastewater into a receiving stream from a Publicly Owned Treatment Works (POTW). Also, municipalities with Industrial Users discharging into the POTW are required to regulate such Industrial Users and enforce all applicable federal, state, and local pretreatment regulations. EPA refers to these municipalities as Control Authorities (CA's).

To accomplish the goals set forth by the Clean Water Act, pretreatment regulations were developed and promulgated. The objectives of the pretreatment regulations, as outlined by the federal government, are:

- A. To prevent the introduction of pollutants into POTWs which will pass through the treatment works or otherwise be incompatible with such works;
- B. To prevent the introduction of pollutants into POTWs which will interfere with the operation of a POTW, including interference with its use or disposal of municipal sludge; and
- C. To improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

In fulfillment of these objectives, the federal pretreatment regulations (Code of Federal Regulations, Title 40, Part 403.8 (f) (5)) are revised periodically. Subsequent to the most recent revisions, CA's have been required to develop and implement Enforcement Response Plans.

II. OVERVIEW OF AN ENFORCEMENT RESPONSE PLAN

A. Objectives

The objectives of an enforcement response plan are:

1. Deter future User noncompliance;
2. Ensure User return to compliance as soon as possible; and
3. Promote fair, consistent, and timely use of enforcement remedies by CA.

B. General Description/Explanation

The enforcement response plan is a guideline for the CA to follow when responding to incidents of User noncompliance. Responsibilities of CA personnel are identified, as well as time frames for CA and User response. Types of violations are identified along with possible associated conditions. Various possible responses to violations are identified and explained. The procedure for selecting the response, which is most appropriate for the particular incident, is also documented. Incidents of noncompliance, which are determined according to federal, state, and local legislation, range from late submittal of a required report to discharge of prohibited substances which cause damage to the POTW and/or to the environment. Enforcement responses, in turn, range from a simple phone call from the CA to the User, to termination of service and/or litigation.

Users, as well as CA's, should bear in mind that at any time with any noncompliance, IDEM as well as EPA can take enforcement actions over and above actions taken by the CA

against a User. The Clean Water Act even makes provisions for citizens to sue persons (including Industrial Users) violating pretreatment standards and/or requirements. In addition, IDEM or EPA can take enforcement actions against the CA for failure to appropriately enforce pretreatment regulations. Action by the City of Elkhart as CA is generally preferable to action by IDEM or EPA, or citizen law suits.

RESPONSIBILITIES OF CONTROL AUTHORITY PERSONNEL

The City of Elkhart's Pretreatment Program is administered by personnel in the Public Works & Utilities department (formerly, the Wastewater Treatment Utility was a separate department). A brief description of the responsibilities of the personnel involved in the program follows.

A. Pretreatment Director - Gathers data through contact with industries and other parties, both in person and by telephone. Organizes data into reports and charts. Reviews self-monitoring reports, facility plans, and permit applications. Inspects industrial dischargers, prepares industrial wastewater discharge permits, initiates enforcement actions (such as, telephone calls, site visits, and notices of violation), and recommends formal enforcement actions (such as, administrative orders, fines, and suspension of service). Determines Significant Noncompliance and prepares list for annual publication in local newspaper.

B. Industrial Waste Specialists - Inspect local industries and collect industrial samples. Review self-monitoring reports, facility plans, and permit applications. Inspect industrial pretreatment facilities. Responsible for compliance tracking and maintenance of files (paper and electronic).

C. Chemists and Laboratory Technicians - Collect and analyze industrial and POTW samples according to approved methodology. Maintain chain of custody.

D. Laboratory Manager - Supervises all laboratory operations to ensure that analyses of industrial and POTW samples are completed accurately and in accordance with pertinent regulations. Coordinates with Pretreatment Director to ensure accomplishment of Pretreatment Program requirements. Develops and maintains sampling and analytical procedures

POTW and industrial monitoring. Responsible for development and implementation of Quality Control and Quality Assurance Program.

E. Superintendent - Responsible for NPDES permit compliance for POTW, including Pretreatment Program implementation. Initiates formal enforcement actions (such as, administrative orders, fines, suspension of service, and litigation). Assists Laboratory Manager in preparation of annual budgets (O & M and Replacement).

Additional personnel that are involved with the implementation and maintenance of the Pretreatment Program include:

Board of Public Works

Corporate Counsel

Public Works and Utilities department personnel (from divisions other than Laboratory and Pretreatment)

An organization chart, which depicts the above mentioned personnel, is attached.

ENFORCEMENT RESPONSE PROCEDURES

I. CATEGORIES OF NONCOMPLIANCE

The following categories of noncompliance of industrial and commercial users shall be subject to enforcement procedures initiated by the City of Elkhart, Indiana.

- A. Failure to submit required reports (Baseline Monitoring Report, Self Monitoring Reports, Compliance Schedule Reports, Monthly/Quarterly Reports)
- B. Failure to meet interim or final compliance schedule milestone dates
- C. Violations of maximum or average pollutant limitation for industry specific categories (categorical standards)
- D. Violations of prohibited discharges under the National Pretreatment Standards (40 CFR 403.5)
- E. Violations of local limits outlined in the Sewer Use and Rate Ordinance, No. 4097, as amended
- F. Violations of industrial wastewater discharge permit
- G. Industrial User's falsification of information submitted to the POTW
- H. Treatment plant upsets and interferences tracked to an Industrial User

II. COMPLIANCE EVALUATION PROCEDURE

The following describes the enforcement response procedures of the City of Elkhart. The steps are depicted in attached *Enforcement Response Schematic*.

A. Data Collection

This process involves the collection of all available information from

inspections, monitoring, reporting, plant upsets, and private complaints. Monitoring data are filed and entered into the SIU database. The Industrial Waste Specialists usually perform this step. Examples of an *Inspection Report* and an *Industrial Site Visit Report* are attached.

B. Compliance Screening

This process involves the review of all available information and monitoring data to sort out noncompliant dischargers for appropriate enforcement response. This initial review will assess, as appropriate, compliance with reporting features and/or compliance with applicable categorical standards and local ordinance limitations. Examples of tracking forms for discharge limits (*Discharge Limit Compliance Evaluation*), monitoring (*Self Monitoring Requirement Tracking* and *POTW Monitoring & Inspection Schedule*), and reporting (*SIU Reporting Compliance Tracking*) are attached, as well as a *Violations Journal*. This step is usually conducted by the Industrial Waste Specialists.

C. Emergency Response

If evaluation of the data reveals an Emergency Condition, the City will take whatever means are appropriate to bring the violator into compliance, through immediate telephone contact with the discharger identifying the problem specifics and requesting immediate corrective measures. If required, more formal measures such as, cease and desist orders, injunctive relief, or termination of the service shall be placed into effect so as to achieve compliance or eliminate the

problem occurrence. The Pretreatment Director makes the initial contact (an example of the *Record of Telephone Conversation* is attached). Formal enforcement action is conducted by the Superintendent or Board of Public Works.

D. **Enforcement Evaluation for Noncompliance**

The violations and conditions identified during the screening processes are reviewed to make a determination relative to the nature of the violation and the type of enforcement necessary. This process is accomplished by using the criteria outlined in the attached *Enforcement Response Guide*. The Pretreatment Director determines the appropriate enforcement action.

E. **Insignificant Noncompliance**

This process consists of notifying the industrial user by notice of violation (mailed certified with return receipt requested). This notice of violation (also known as letter of violation) outlines the specifics of the incident and seeks remedial action and response of the discharger. The City will then evaluate the response reply to the notice of violation and make a determination as to whether the discharger has returned to compliance. If compliance is not achieved, the incident will return to Enforcement Evaluation for further action. The notice of violation is written by the Pretreatment Director.

F. **Significant Noncompliance**

This process consists of notifying the industrial user by telephone and notice of violation (mailed certified return receipt requested). The notice of violation outlines the specifics of the incident and seeks remedial action and

response of the discharger. The City will then evaluate the response reply to the notice of violation and make a determination as to whether the discharger has returned to compliance. If compliance is not achieved, the City will initiate Formal Enforcement Action. The Pretreatment Director notifies the IU by telephone and letter and compiles the data to make the SNC determination. Formal enforcement action is taken by the Superintendent or Board of Public Works.

The procedure by which Significant Noncompliance is determined is attached (*Significant Noncompliance Determination*).

G. **Formal Action**

1. Compliance Schedules

When the City finds that a discharge of wastewater has been taking place, in violation of the requirements prescribed in the Ordinance or the provisions of an Industrial User Permit, the City may require the discharger, through written notification (mailed certified, return receipt requested), to submit for approval a detailed compliance schedule of specific actions, which the discharger shall take in order to prevent or correct a recurrence of said violations, including but not limited to milestone dates for the commencement and completion of major events leading to construction and operation of additional pretreatment facilities required for the discharger to comply with the requirements of the Ordinance, dates relating to hiring an engineer, hiring other appropriate

personnel, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, filing interim progress reports, completing construction and all other necessary related acts. The response reply to this directive will then be evaluated to determine whether the discharger has returned to compliance. If compliance is not achieved, the enforcement action will proceed to Cease and Desist procedures.

2. Cease and Desist

Further, when the City finds that a discharge of wastewater has taken place in violation of the requirements of the Ordinance, or the provisions of an Industrial User's Permit, the City, following a discovery meeting with the Industrial User, may issue an order to cease or desist, and direct that the discharger:

- (a) Comply forthwith;
- (b) Comply in accordance with a compliance schedule set forth by the City; or
- (c) Take appropriate remedial or preventive action in the event of a threatened violation.

The response reply to this directive will then be evaluated as to whether the discharger has returned to compliance. If compliance is not achieved, the enforcement action will proceed to the courts requesting injunctive relief and the imposition of Civil Penalties.

3. Injunctive Relief

Further, when the City finds that a discharge of wastewater is in violation of requirements of the Ordinance or the provisions of an Industrial User's Permit, or otherwise causes or threatens to cause a condition of pollution or nuisance, the City, following a discovery meeting with the Industrial User, may petition the court for the issuance of a preliminary or permanent injunction or both, as may be appropriate in restraining the continuance of such a discharge. Such dischargers having significantly violated their Industrial User's Permit, the terms of the City Ordinance 4097 as amended, and prior enforcement proceedings are further subject to fines imposed by the City, in amounts of not less than one thousand dollars (\$1,000.00) per day for each offense cited.

4. Civil Penalties

Any discharger who is found to have significantly violated or fails to comply with any enforcement action of the Ordinance, and the orders, rules, regulations, and permits issued hereunder, may be fined not less than One Thousand Dollars (\$1,000.00) for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the City may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation by appropriate suit at law against the person found to have significantly violated the Ordinance or the orders, rules,

regulations, and permits issued.

The response reply to this directive will then be evaluated as to whether the discharger has returned to compliance. If compliance is not achieved, the enforcement action will proceed to Show Cause considerations.

5. Show Cause Hearing

Further, when a violation of the Ordinance or applicable pretreatment regulation occurs and is not corrected by timely compliance, the City may order any discharger to show cause, stating why permit revocation action should not be taken. A written notice shall be served on the discharger by a personal service, certified or registered mail, specifying the time and place of said hearing to be held by the Board. The hearing will consider the violation, proposed enforcement action, reasons why the proposed enforcement action should not be taken. The notice of the hearing shall be served not less than ten (10) days before the scheduled hearing.

6. Revoke Permit

Finally, the City may for good cause suspend the wastewater treatment service and the Wastewater Discharge Permit of a discharger, when it is evident to the City that an actual or threatened discharge presents or threatens an imminent or substantial danger to the environment, interference with the operation of the POTW, violate any

pretreatment limits imposed by the Ordinance or any Wastewater Discharge Permit issued pursuant to the Ordinance. Any discharger notified of the suspension of the City's wastewater treatment service and/or the discharger's Wastewater Discharge Permit, shall within a reasonable period of time, as determined by the City, terminate all discharges.

III. TIME FRAMES FOR ENFORCEMENT RESPONSES

The following outlines the City's planned time frame for enforcement responses.

- A. All violations will be identified and documented by the CA within five working days of violation detection.
- B. Initial enforcement responses by the CA (involving contact with the Industrial User and requesting information on corrective or preventive action) will occur within 10 working days of violation detection.
- C. An escalated enforcement response for continuing or recurring violations will be made within 60 calendar days of the initial enforcement response.
- D. Violations which threaten human health, property, or environmental quality are considered emergencies and will receive an immediate response.
- E. Significant Noncompliance will be addressed with an Administrative Order within 30 calendar days of the SNC determination.

IV. SUMMARY OF THE TYPES OF ENFORCEMENT RESPONSE

The various types of enforcement responses are summarized below.

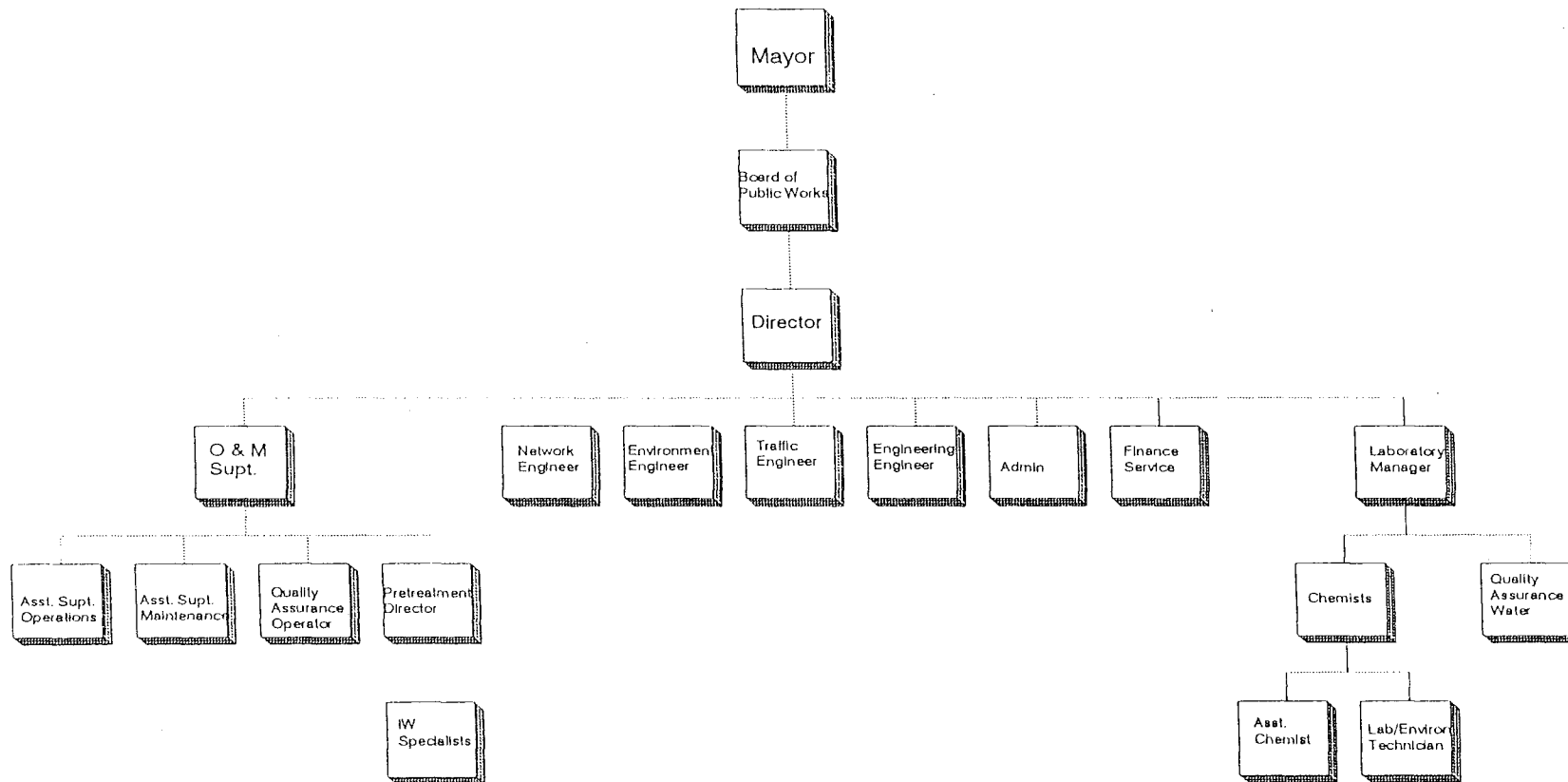
- A. PC - Phone Call - Is a response to a minor type of violation such as report being one or two days late. This response is normally conveyed to the contact person at the industry. Normally, the User would not be required to report further activities unless the violation persists.
- B. SV - Site Visit - A visit to the industrial site to discuss and observe the problem. This can be a substitution for or in conjunction with a PC or NOV. The City may require a written response within 5 to 20 work days indicating the cause for noncompliance and corrective actions taken, needed, and/or planned to prevent recurrence. A site visit report form should be filled out by the City's representative.
- C. NOV - Notice of Violation - This is a written notice to the User indicating the violation and requiring a written response within 5 to 20 work days which includes cause of the violation and corrective actions taken, needed, and/or planned to prevent recurrence of such violations.
- D. AO - Administrative Order - An Administrative Order is a written directive usually issued when noncompliance cannot be resolved without construction, repair, or process/operation changes. Such orders are also frequently used to require Users to develop management practices, spill prevention programs, and related City pretreatment program requirements. An Administrative Order may incorporate a compliance schedule and/or an Administrative Fine. Such Order may also include an order to suspend, or cease and desist discharge. Normally, a compliance schedule of duration greater than six months would be incorporated

by the Board of Public Works into the User's discharge permit. An Administrative Order is normally the first formal response to a Significant Noncompliance.

- E. AF - Administrative Fine - An Administrative Fine will be utilized when deemed appropriate by the City because of the nature of the violation. Such fines, by emphasizing to the User the seriousness of the violation, are meant to deter future noncompliance. The amount of fines (up to \$2,500 per violation, with each day considered a separate violation), are determined on an individual basis as recommended by the Utility and approved by the Board.
- F. SOS - Suspension of Service - If necessary, in order to eliminate imminent endangerment to POTW employees or the public, the City may suspend partial or total sewer services to a noncompliant User. This response may include revocation of a Users discharge permit and/or blocking of a User's sewer connection.
- G. LIT - Litigation - Litigation may include several courses of action, including civil suits for injunctive relief and/or civil penalties, criminal suits, etc. These type of actions would all involve the courts and the City Corporate Counsel and would follow all appropriate procedures.

ATTACHMENT I.
ORGANIZATION CHART

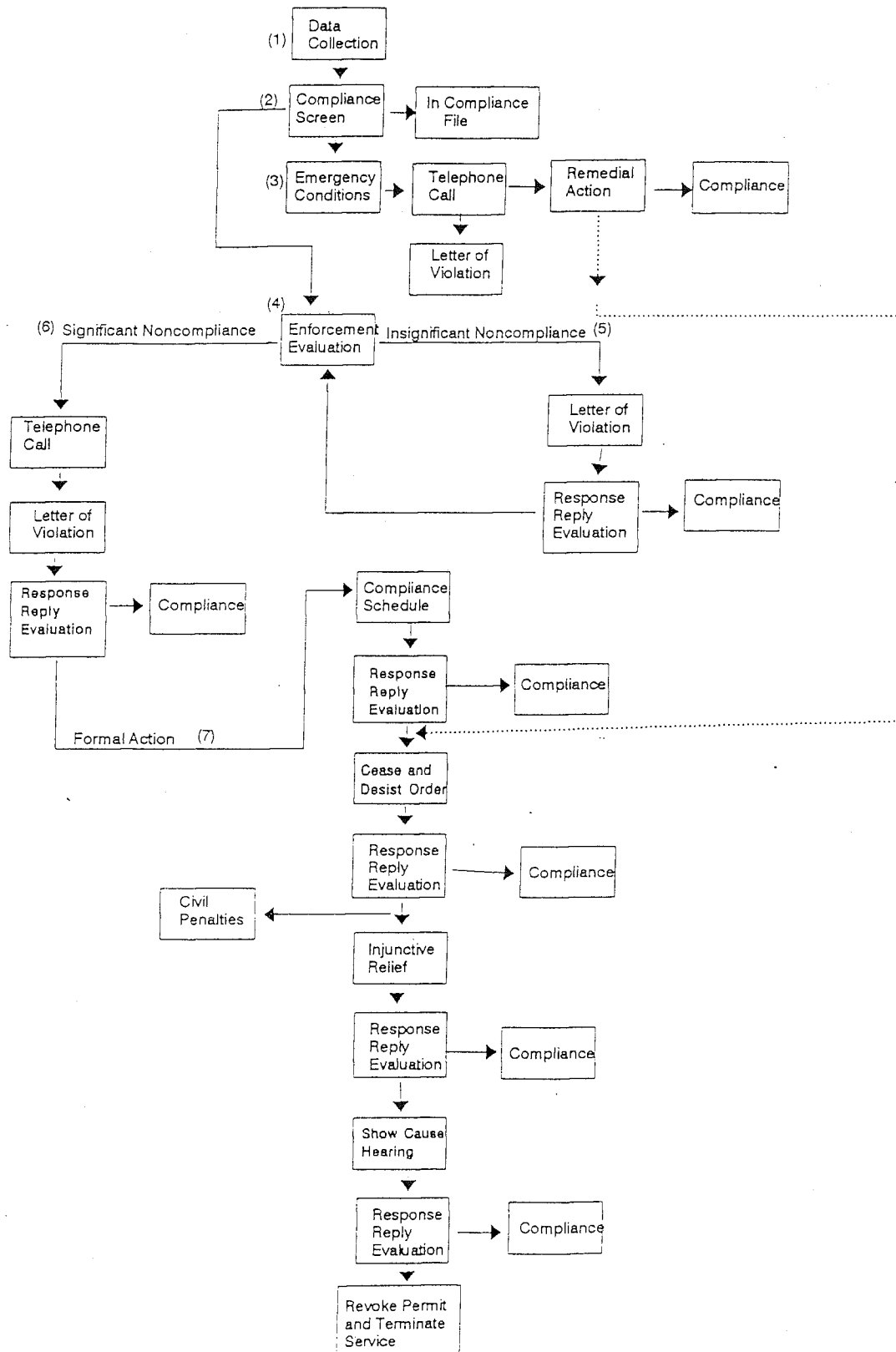
CITY OF ELKHART PUBLIC WORKS & UTILITIES



ATTACHMENT II.

ENFORCEMENT RESPONSE SCHEMATIC

ENFORCEMENT RESPONSE SCHEMATIC



ATTACHMENT III.
INSPECTION REPORT

INDUSTRIAL PRETREATMENT INSPECTION REPORT

City of Elkhart, IN

Inspection Date: _____ Starting Time: _____
Inspector: _____ Ending Time: _____

Background Information

Facility Name: _____
Facility Address: _____

Person Contacted/Title: _____ Phone: _____

Employees: _____ Start Times: Shift 1 _____ Shift 2 _____ Shift 3 _____

Inspection Type/Purpose: ☐ Unannounced ☐ Scheduled ☐ New Company
☐ Complaint ☐ Spill ☐ Violation

Other _____

Pretreatment Permit

Permit #: _____ Expiration Date: _____

Categorical Standards 40 CFR: (1) _____ (2) _____ (3) _____

Toxic Organic (Solvent) Management Plan : Required? _____ Optional? _____

On File? _____ Adequate? _____ Implemented? _____

Slug Prevention/Control Plan:

Necessary? _____ On File? _____ Adequate? _____ Implemented? _____

Production Based Standards: Applicable? _____

Current average production rate(s): Reported as required? _____

Significant changes since permit issuance/revision? _____ If Yes, explain:

Do permit limits represent current operations? _____

Necessary changes: _____

Self monitoring reports to City?

Required? _____ On File? _____ Current? _____ Complete? _____

Water/Wastewater

Source of intake water: City? _____ Well? _____ Other (specify)? _____

Discharge (gpd): Sewer _____ NPDES _____

Into Product _____ Evaporation _____

Other (specify) _____

Significant changes in discharges (Description/Explanation): _____

INDUSTRIAL PRETREATMENT INSPECTION REPORT

City of Elkhart, IN

Discharge(s) to Sewer at	Sample Site(s)	(gpd)
Sample Site #	_____	_____
Industrial Process	_____	_____
Contact Cooling	_____	_____
Non-contact Cooling	_____	_____
Boiler Blow-down	_____	_____
Sanitary	_____	_____
Other (specify)	_____	_____
Total	_____	_____

Process Discharge Flow: Continuous? _____ Batch? _____
gal/batch _____ Frequency _____
Explanation/Comments: _____

Flow measurement:

1. For Surcharge Billing: Meter? _____ Other (specify) _____
Date of calibration: _____
Flow measurement adequate? _____ Comments _____

2. For Combined Wastestream Formula
Applicable? _____ Meter(s) Required? _____
Meter(s) Used (describe)? _____

Date(s) of calibration: _____
Flow Measurement Adequate? _____ Comments: _____

3. Other Meter(s) Required? _____ Meter(s) Used (describe)? _____

Date(s) of calibration: _____
Flow Measurement Adequate? _____ Comments: _____

Manufacturing Area

Product/Service: _____
Process Wastestreams:
To Sewer: _____

To surface/ground water: _____

Raw Materials: _____

Chemicals: _____

Solvents: _____

Cooling Water Additives: _____

INDUSTRIAL PRETREATMENT INSPECTION REPORT

City of Elkhart, IN

Process Areas Inspected: _____

Condition/Operation: Good _____ Fair _____ Poor _____

General Housekeeping: Good _____ Fair _____ Poor _____

Condition: _____

Slug Prevention/Control Adequate? _____ If No, Explain: _____

Pretreatment Area

Pretreatment System: Applicable? _____

Description: _____

Discharge: Batch? _____ Continuous? _____ Other (specify) _____

Condition/Operation: Good _____ Fair _____ Poor _____

Comments: _____

Certified Operator(s):

Name: _____ # _____ Class _____ Expires _____

Name: _____ # _____ Class _____ Expires _____

Slug Prevention/Control Adequate? _____ If No, Explain _____

Chemical/Waste Storage Area

Chemical Storage Description: _____

Condition: Good _____ Fair _____ Poor _____

Problems/Comments: _____

Slug Prevention/Control Adequate? _____ If No, Explain _____

Hazardous Waste

Sources: _____

Hazardous Waste Handling

Quantity Generated _____

Name of Transport Company _____

Name of Disposal Facility _____

On-Site Storage _____

Drums/Labels/Manifests: Satisfactory? _____

INDUSTRIAL PRETREATMENT INSPECTION REPORT

City of Elkhart, IN

Condition: Good _____ Fair _____ Poor _____
Problems/Comments: _____

Slug Prevention/Control Adequate? _____ If No, Explain _____

Industrial Self-Monitoring

Self-Monitoring Required? _____

Sample Collection

Is sampling equipment adequate? _____

Is correct sample type taken? _____

Are appropriate sample containers used? _____

Are samples properly preserved? _____

Have holding times been exceeded? _____

Is chain-of-custody adequate? _____

Analysis

In-House _____ Contract Laboratory (Name) _____

Are samples analyzed by EPA approved methods? _____

Self-Monitoring Records

Are all analytical results on file? _____

Are all analytical results reported? _____

Are results kept as long as required by permit? _____

Comments: _____

ATTACHMENT IV.

INDUSTRIAL SITE VISIT REPORT

INDUSTRIAL PRETREATMENT

City of Elkhart, IN

INDUSTRIAL SITE VISIT REPORT

Visitation Date: _____

Start Time: _____

Visiting Official: _____

Ending Time: _____

Facility Name: _____

Facility Address: _____

Person Contacted/Title: _____ Phone: _____

Inspection Type/Purpose: Unannounced _____ Scheduled _____

New Company _____ Complaint _____ Spill _____

Violation _____ Other _____

Purpose _____

Comments: _____

Conclusions: _____

Official's Signature: _____ Date: _____

This form does not replace the report form used for comprehensive industrial inspections.
The purpose of this form is to document the interim site visits conducted between
inspections.

ATTACHMENT V.

DISCHARGE LIMIT COMPLIANCE EVALUATION

DISCHARGE LIMIT COMPLIANCE EVALUATION

SIU Name _____

Permit No. _____

* = exceeds limit

② = City monitoring

① = exceeds limit by > 20%

③ = IU monitoring

end of:	pipe	proc	pipe	proc	pipe	proc	pipe	proc	pipe	proc	pipe	proc	pipe	proc	pipe	proc	pipe	proc	pipe	proc
Daily Max																				
+ 20%																				
Mo. Ave.																				
+ 20%																				
Sample Date	Cadmium		Chromium		Copper		Nickel		Lead		Zinc		Mercury		Cyanide		Silver		TTO	

NOTE: (1) If POTW samples end of pipe & IU samples end of process, POTW uses CWF to determine compliance.

(2) Highlight violations.

(3) At end of each month, when more than one sample is collected during month, calculate monthly average.

(4) At end of each month, calculate for previous 6 months: (a) % noncompliance (b) % exceeds limit (c) SNC applicability.

ATTACHMENT VI.

SELF MONITORING REQUIREMENT TRACKING

INDUSTRIAL PRETREATMENT

City of Elkhart, IN

SELF MONITORING REQUIREMENT TRACKING

SIU Name _____

Date Revised _____

Permit # _____

O = sample required

/ = conducted

\ = satisfactory

W = waived

Week	Jan	Feb	Mar
1st	_____	_____	_____
2nd	_____	_____	_____
3rd	_____	_____	_____
4th	_____	_____	_____
5th	_____	_____	_____

First Quarter

Week	Apr	May	Jun
1st	_____	_____	_____
2nd	_____	_____	_____
3rd	_____	_____	_____
4th	_____	_____	_____
5th	_____	_____	_____

Second Quarter

SemiAnnual _____

Week	Jul	Aug	Sep
1st	_____	_____	_____
2nd	_____	_____	_____
3rd	_____	_____	_____
4th	_____	_____	_____
5th	_____	_____	_____

Third Quarter

Week	Oct	Nov	Dec
1st	_____	_____	_____
2nd	_____	_____	_____
3rd	_____	_____	_____
4th	_____	_____	_____
5th	_____	_____	_____

Fourth Quarter

Semi Annual _____

ATTACHMENT VII.

MONITORING & INSPECTION SCHEDULE

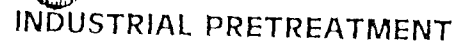
City of Elkhart, IN

[illegible]

DEMAND / SURVEILLANCE / SPECIAL
(D) (SU) (SP)

ATTACHMENT VIII.

SIU REPORTING COMPLIANCE TRACKING



SIU REPORTING COMPLIANCE TRACKING

City of Elkhart, IN

SP = Special Report Due

SA = Semi Annual Report Due

[illegible]

[illegible]

100

[illegible]

1

SIU REPORTING COMPLIANCE TRACKING

City of Elkhart, I

[illegible]

ATTACHMENT IX.
VIOLATIONS JOURNAL

STU (Company Name) _____

[illegible]

ATTACHMENT X.

RECORD OF TELEPHONE CONVERSATION

INDUSTRIAL PRETREATMENT

City of Elkhart, IN

RECORD OF TELEPHONE CONVERSATION

DATE _____
TIME _____

CALL FROM _____
CALL TO _____

SUBJECT OF CALL _____

CONTEXT OF CONVERSATION _____

ACTION REQUIRED _____

ATTACHMENT XI.

SIGNIFICANT NONCOMPLIANCE DETERMINATION

SIGNIFICANT NONCOMPLIANCE DETERMINATION**INSTRUCTIONS FOR THE
IDENTIFICATION OF INDUSTRIAL USER VIOLATIONS**STEP 1 - Preparation

1. Identify all appropriate parameters and standards.
2. Calculate the Technical Review Criteria (TRC) value for the daily maximum and monthly average limits for each pollutant.

TRC = 1.4 x limit for BOD, TSS, fats, oil and grease

TRC = 1.2 x limit for toxics and organics

3. Calculate monthly averages for all parameters with a monthly average limit.

STEP 2 - Identify Wastewater and Reporting Violations

4. Identify all monitoring data that exceeds the daily maximum limit and each calculated monthly average that exceeds the monthly average limit.
5. Identify all exceedances of the TRC value for the daily maximum and all exceedances of the TRC value for the monthly average.
6. Identify all reporting violations.

STEP 3 - Summarize Violations

Do this step only for parameters that have a violation identified in Step 2.

There are 4 evaluation periods for Significant Noncompliance (SNC), each six months long (October - March, January - June, April - September, July - December).

THE FOLLOWING CALCULATIONS NEED TO BE MADE FOR EACH PERIOD.

7. Count the number of monitoring events for each parameter, the number of times the monitoring data exceeded the daily maximum limit and the number of times the data exceeded the TRC value of the daily maximum. Fill in the Summary of Violations section with these numbers.

SIGNIFICANT NONCOMPLIANCE DETERMINATION

8. Count the number of monthly average calculations for each reporting period, the number of times the calculated monthly average exceeded the monthly average limit and the number of times the calculated average exceeded the TRC value for the monthly average. Fill in the Summary of Violations section with these numbers.

STEP 4 - Determine SNC

9. To determine the "Chronic Violations", as per the SNC definition, identify each time the daily maximum value was exceeded for more than 66% of the monitoring events and each time the monthly average value was exceeded for more than 66% of the calculated monthly averages.
10. To determine the "TRC Violations", as per the SNC definition, identify each time the TRC value for the daily maximum limit was exceeded for more than 33% of the monitoring events and each time the TRC value for the monthly average limit was exceeded for more than 33% of the calculated monthly averages.
11. Identify which industries the POTW would have to publish in the annual newspaper publication of Significant Industrial Users in SNC.

SIGNIFICANT NONCOMPLIANCE DETERMINATION

COMPLIANCE EVALUATION
SNC DETERMINATION

- A. 66 PERCENT OR MORE VIOLATIONS
 - B. 33 PERCENT OR MORE TRC VIOLATIONS
 - C. INTERFERENCE OR PASS THROUGH
 - D. IMMINENT ENDANGERMENT TO HEALTH OR ENVIRONMENT
 - E. FAILURE TO MEET COMPLIANCE SCHEDULE MILESTONE WITHIN 90 DAYS
 - F. LATE REPORTS (MORE THAN 30 DAYS)
 - G. FAILURE TO ACCURATELY REPORT NONCOMPLIANCE
 - H. ANY OTHER VIOLATION DETERMINED BY POTW
-
- A. Chronic violations of wastewater discharge limitations (66 percent or more of all measurements exceed the daily maximum or the long-term average limit for the same pollutant parameter).
 - B. Technical Review Criteria (TRC) violations (33 percent or more of all measurements exceed 1.2 times the limit for toxics or 1.4 times the limit for BOD, TSS, and O & G).
 - C. Any other violation of an effluent limit that the Control Authority determines has caused, either alone or in conjunction with the other discharges, pass through or interference.
 - D. Any discharge that causes endangerment to human health, welfare, or the environment, or cause the POTW to exercise its emergency authority to halt or prevent such discharge.
 - E. Failure to meet a compliance schedule milestone date or enforcement order within 90 days after the scheduled date for starting construction, completing construction, or attaining final compliance.
 - F. Reports that are more than 30 days late (e.g., BMR's, 90-day reports, periodic reports, and compliance schedule milestone reports).
 - G. Failure to accurately report noncompliance.
 - H. Any violation determined to adversely affect the operation or implementation of the pretreatment program.

SIGNIFICANT NONCOMPLIANCE DETERMINATION

INDUSTRY NAME					MONITORING FREQUENCY				Pub of IU for SNC
SUMMARY OF VIOLATIONS AND DETERMINATIONS OF SNC									
1st Period Oct - Mar		2nd Period Jan - June		3rd Period Apr - Sep		4th Period Jul-Dec			
Reporting Violations		Reporting Violations		Reporting Violations		Reporting Violations			
Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events		
Reporting Violations		Reporting Violations		Reporting Violations		Reporting Violations			
Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events		
Reporting Violations		Reporting Violations		Reporting Violations		Reporting Violations			
Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events		
Reporting Violations		Reporting Violations		Reporting Violations		Reporting Violations			
Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events		
Reporting Violations		Reporting Violations		Reporting Violations		Reporting Violations			
Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events		
Reporting Violations		Reporting Violations		Reporting Violations		Reporting Violations			
Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events		
Reporting Violations		Reporting Violations		Reporting Violations		Reporting Violations			
Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events		
Reporting Violations		Reporting Violations		Reporting Violations		Reporting Violations			
Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events		
Reporting Violations		Reporting Violations		Reporting Violations		Reporting Violations			
Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events	Daily Max Vio # Mon Events	Daily TRC Vio # Mon Events		

ATTACHMENT XII.

ENFORCEMENT RESPONSE GUIDE

ENFORCEMENT RESPONSE GUIDE

This guide is designed to address a broad range of industrial user violations of monitoring, reporting, and treatment requirements that may range from relatively minor problems to very major violations. Each instance of noncompliance is considered a violation and sound enforcement policy will be to review each and respond appropriately.

The steps for utilizing the guide are, as follows:

1. Locate the type of noncompliance in the first column (entitled *Noncompliance*) of the *Range of Enforcement Response Guide* and identify the most accurate description of the nature of violation in the second column (entitled *Circumstances*).
2. Access the appropriateness of the recommended responses in the third column (entitled *Range of Responses*). The following four items will be considered when determining whether a violation is significant or insignificant.
 - a. **Duration of the Violation and Compliance History of the Industrial User**

The City will review the violation summary to evaluate the duration of the violation and the compliance history of the Industrial User. Any exceedance of an applicable effluent limit or failure to meet the deadlines and conditions for reporting, monitoring, or treatment is a violation. The violation summary will be reviewed for at least six months to determine if the particular type of violations are isolated or recur in some type of pattern. The City will also consider enforcement response

that was offered for the previous violation.

Isolated violations will usually be attributed to a relatively simple problem that can be easily corrected. However, when several minor exceedances occur, either consecutively or several months apart, it may suggest that operating practices are inadequate to meet the limits, and further pretreatment measures are needed.

More aggressive enforcement actions will be taken against facilities that frequently exceed numerical pretreatment standards than those that report isolated exceedances (unless the isolated exceedances are large and troublesome).

b. Apparent Good Faith of Responsible Industrial User Personnel

If industrial user personnel appear to be attempting in good faith to comply with pretreatment requirements, City enforcement actions will obviously be on a more cooperative level than if industrial user personnel do not appear to be attempting to comply.

City personnel are aware that the Clean Water Act requires extraordinary efforts to comply with its requirements in a timely way. Good faith will be measured against this standard. Congress clearly expresses the efforts that are expected:

The Act requires industry to take extraordinary efforts if the vital and ambitious goals of Congress are to be met. This means that business-as-usual is not enough. Prompt, vigorous and in many cases, expensive pollution control measures must be initiated and completed as promptly as possible. In assessing the good faith of a discharger, the discharger is to be judged against these criteria.

Moreover, it is an established principle, which applies to this Act, that administrative and judicial review are sought on the discharger's own time.

c. The Harm Caused by the Violation

Violations are evaluated to determine the suspected or measured adverse environmental and POTW impact and rated accordingly.

d. Previous Success of Enforcement Actions Taken Against User

3. Apply the enforcement response to the User. Specify the corrective action or other responses required of User, if any.
4. Follow-up with escalated enforcement action, if the User does not respond or violation continues.

ATTACHMENT XIII.

RANGE OF ENFORCEMENT RESPONSE GUIDE

RANGE OF ENFORCEMENT RESPONSE GUIDE

SAMPLING, MONITORING, AND REPORTING		
Noncompliance	Circumstances	Range of Response
1. Failure to sample, monitor, or report (routine reports, BMR's)	Isolated or infrequent	Written Notice of Violation requiring a report within 5 days. No response leads to significant noncompliance, then formal action, then cease & desist order.
2. Failure to sample, monitor, report, or notify	IU does not respond to letters, does not follow through on verbal or written agreement, or administrative order	Civil penalties, injunctive relief follows, then show cause hearings, leading to termination of service.
3. Failure to notify of effluent limit violation or slug discharge	Isolated or infrequent. No known effects.	Notice of Violation
4. Failure to notify of effluent limit violation or slug discharge	Frequent or continued violation	Same as (1) above
5. Failure to notify of effluent limit violation or slug discharge	Known environmental or POTW damage results	Same as (2) above, but could include emergency considerations which accelerate enforcement features leading to termination of service.
6. Minor sampling, monitoring, or reporting deficiencies (computational or typographical errors)	Isolated or infrequent	Notice of Violation. Corrections to be made on next submittal.
7. Major or gross sampling, monitoring, or reporting deficiencies (missing information, late reports)	Isolated or infrequent	Phone call, Notice of Violation, followed by formal action (compliance schedule)

SAMPLING, MONITORING, AND REPORTING

8. Major or gross reporting deficiencies	Continued. Remains uncorrected 30 days or more.	Cease & Desist or judicial action leading to show cause hearing and termination of service
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COMPLIANCE SCHEDULES
(construction phases or planning)

Noncompliance	Circumstances	Range of Response
9. Reporting false information	Any instance	Same as (1) above
10. Missed Interim Date	Will not cause late final date or other interim dates	Notice of Violation
11. Missed Interim Date	Will result in other missed interim dates. Violation for good or valid cause.	Same as (1) above
12. Missed Interim Date	Will result in other missed interim dates. No good or valid cause.	Phone call, Notice of Violation, then formal action, then cease & desist with civil penalties recommendations
13. Missed Final Date	Violation due to outside force (strike, act of God, etc.)	Contact permittee and require documentation of good or valid cause
14. Missed Final Date	90 days or more outstanding. Failure or refusal to comply without good or valid cause	Same as (2) above
15. Failure to install monitoring equipment	Continued	Phone call, Notice of Violation, formal action (compliance schedule) to begin monitoring (using outside contracts, if necessary) <u>and</u> install equipment within minimal time. Continued noncompliance leads to termination of service

EFFLUENT LIMITS

Noncompliance	Circumstances	Range of Response
16. Exceeding Final Limits (categorical, local, or prohibited)	Infrequent or isolated minor violation	Notice of Violation
17. Exceeding Final Limits	Infrequent or isolated major violations exceed the limits by TRC of a single effluent limit	Same as (1) above
18. Exceeding Final Limits	Significant Noncompliance	Phone call, Notice of Violation, formal action (compliance schedules) and if necessary, Cease & Desist with Civil Penalties recommended
19. Exceeding Interim Limits	Results in known environmental or POTW damage	Same as (18) above, but could include emergency considerations which accelerate enforcement features leading to termination of service
20. Reported Slug Load	Isolated without known damage	Notice of Violation
21. Reported Slug Load	Isolated with known interference, pass through, or damage	Same as (19) above
22. Reported Slug Load	Recurring	Same as (1) above
23. Discharge without a permit or approval	One time without known environmental or POTW damage	Phone call, Notice of Violation, formal action, then Cease and Desist, if necessary
24. Discharge without a permit or approval	One time which results in environmental damage or continuing violation	Same as (1) above, including Civil Penalties, but could include emergency considerations which accelerate enforcement features leading to termination of service

EFFLUENT LIMITS		
25. Discharge without a permit or approval	Continuing violation with known environmental or POTW damage	Same as (5) above

NONCOMPLIANCE DETECTED THROUGH INSPECTIONS OR FIELD INVESTIGATION		
Noncompliance	Circumstances	Range of Response
26. Minor violation of analytical procedures	Any instance	Notice of Violation
27. Major violation of analytical procedures	No evidence of intent	Notice of Violation
28. Major violation of analytical procedures	Evidence of negligence or intent	Same as (23) above
29. Minor violation of permit condition	No evidence of negligence	Notice of Violation
30. Minor violation of permit condition	Evidence of negligence or intent	Same as (1) above

This Range of Enforcement Guide addresses a broad range of pretreatment violations. It is not intended to cover all types of violations. The responses in this guide are suggested responses. The City of Elkhart may use alternative enforcement responses that are equally effective. The measure of the effectiveness of an enforcement response includes:

- whether the noncomplying source returns to compliance as expeditiously as possible;
- whether the enforcement response establishes the appropriate deterrent effect for the particular violator and for other potential violators; and
- whether the enforcement response promotes fairness of government treatment as between comparable violators, as well as between complying and noncomplying parties.

This guide has been developed for guidance is not intended to create legal rights or obligations or to limit the enforcement discretion of the City of Elkhart, Indiana.